

Filed for intro on 02/15/95
Senate Bill _____
By _____

House No. HB1177
By West, Jr.

AN ACT relative to the delivery or disbursement of funds related to
a real estate purchase or loan transaction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context otherwise requires, the terms “mortgage”, “mortgage lender”, “mortgage loan broker”, and “mortgage loan servicer” mean the same as such terms are defined in Tennessee Code Annotated, Section 45-13-102; except, however, for purposes of this act, when used in such definitions, the term “mortgage loan” means a loan secured by a mortgage, intended for any purpose.

SECTION 2. It is unlawful for a mortgage lender, mortgage loan broker, or mortgage loan servicer to knowingly deliver funds for disbursement at closing or settlement of a mortgage loan except in one (1) or more of the following forms:

- (a) Cash;
- (b) Federal funds wire transfer;
- (c) Checks drawn or certified by, or cashier’s check or credit union share drafts of, a financial institution, the accounts of which are insured by an agency of the federal or a state government; or

(d) Checks issued by the state of Tennessee or any political subdivision thereof.

SECTION 3. It is unlawful to knowingly disburse funds from an escrow or settlement account on any sale or loan involving real estate until collected funds, designated for said transaction, sufficient to fund all except one thousand dollars (\$1,000) of the total disbursements to be made with respect to said transaction, have been received. For purposes of this section, "collected funds" are defined as any one (1) or more of the following:

(a) Cash;

(b) Federal funds wire transfer;

(c) Checks drawn or certified by, or cashier's check of or credit union share drafts of, a financial institution, the accounts of which are insured by an agency of the federal or a state government;

(d) Checks issued by the State of Tennessee or any political subdivision thereof;

or

(e) Proceeds of checks which are made immediately available in local funds to the person disbursing the funds pursuant to the Federal Reserve System availability schedule applicable to such person's depository financial institution.

SECTION 4.

(a) A person who violates the provisions of Section 3 or 4 of this act commits a Class A misdemeanor.

(b) In addition to the foregoing criminal penalty, any person violating this act is liable to any other party suffering a loss due to such violation for such party's actual damages or one thousand dollars (\$1,000) whichever is greater, plus reasonable attorney's fees.

SECTION 5. This act shall take effect July 1, 1995, the public welfare requiring it.